

Applicant withdraws claim 10.

Response to Detailed Action Item 2 and 3

Remarks – General

The last O.A. rejected independent claim 9 quoting the second paragraph of 35 U.S.C. 112, “The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention”. Furthermore the O.A. stated, “It is not understood what the means for the housing, the scoring elements and the attachments to be a self contained scoring banner is.”

The rejection of Claim 9 is overcome by amendment of Claim 11 by particularly pointing out and distinctly claiming the subject matter of the invention.

The scoring elements are coupled to and sandwiched between the housing’s front and back face forming a self contained scoring banner.

By the above amendment, Applicant has rewritten the claims to define the invention more particularly and distinctly so to define the invention patentably over the prior art.

In defining the term self contained, two classic definitions of a self-contained machine include:

- “having all the essential working parts connected by a framework, or contained in a case”
- “constituting a complete and independent unit in and of itself.”

Applicants’s two sided scoring banner meets both definitions. The claim describes a scoring banner containing a front face and back face forming the banner housing. The claims further describe windows formed in both faces allowing a window to be formed through the entire housing. The “self-contained” definition of the banner consists of the internally contained scoring elements which are coupled to and sandwiched between the

front face and the back face of the banner housing. These scoring elements are thus “contained” within the banner itself, therefore not to be removed in the normal course of use. The definition of “self-contained” refers to the fact the scoring elements can display various scoring symbols through both the front face window and the back face window of the scoring banner while always residing inside the scoring banner itself, the specification stating: **“means to reposition in one step, said scoring element within said housing to simultaneously display selected said scoring symbol through both said front face window and said back face window”**. More particularly the scoring elements and the banner form one working unit and therefore is a “self-contained” scoring system. Stating it in a different way, the scoring elements are part of and stay within the banner housing while the scoring elements are repositioned into different displays. The scoring elements do not have to be removed from the housing itself to display a different set of symbols. Therefore the scoring banner and the scoring elements contained within are inseparable in their functionality of displaying a symbol or set of symbols. Any device needing to change a symbol display that requires the scoring elements to be physically removed from the device (which is therefore separate and divided) could not be defined as “self-contained”.

The scoring elements being flexible by design further acts as one unit within the flexible features of the banner itself and therefore further defines the device as self contained.

The second definition of self-contained presented above states, “constituting a complete and independent unit in and of itself.” A self-contained scoring banner refers to the ability of a banner and a scoring device to maintain the properties of both a scoring device and a banner while acting as one complete and independent unit in and of itself. The applicant’s two sided scoring banner acts as one complete and independent unit and includes both the capabilities and features of a banner, (that is being able to be unfurled, displayed and rolled upon itself) as well as the features of a scoreboard, (being capable of quickly and efficiently selecting and displaying a desired scoring symbol or set of desired scoring symbols). A self-contained scoring banner therefore not only refers to the fact that the scoring elements are contained within the banner housing itself (as defined

previously) but also the unique ability for the scoring elements within the banner to be self contained and flexible, therefore capable of form fitting with and to the banner. This flexibility of the scoring elements while being self contained and working as one with the banner allows the banner to retain its primary capabilities of being unfurled, hung and rolled upon itself without the scoring elements restricting this process or being damaged from its original planar state, form and structure.

The use of flexible self-contained scoring components in conjunction with a flexible scoring device banner acting as one self-contained functional unit (acting as one) was not done before, so neither it nor its contingent advantages were known or appreciated.

The self contained scoring banner has the capability of simultaneously providing a two-sided scoring display using one scoring element.

The last O.A. rejected claim 9 under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claiming the subject matter which applicant regards as the invention. Applicant has amended claim 11 to more particularly point out the self contained and flexible nature of the device and has also more particularly pointed out the simultaneous two sided scoring capability of the banner device. As the amended claim states, the scoring device has the ability to display a team's scoring symbol simultaneously on both the front and back of the banner by repositioning a single scoring element. The amended claim describes a scoring device with a flexible front face and a back face containing a flexible scoring element coupled to and sandwiched between the front face and back face. The claim also provides for a set of scoring symbols selectively placed on the front and back of the scoring elements so that the same presentation (and size) of the scoring symbol can be displayed on both sides of the scoring banner simultaneously. Means are also provided to reposition the scoring element within the self-contained scoring banner to display a newly selected symbol. The use of a flexible self-contained scoring component in conjunction with a flexible scoring device banner acting as one self-contained functional unit providing the same presentation of the same scoring symbol display on both the front and back simultaneously was not done before, so neither it nor its contingent advantages were known or appreciated.

Response to Detailed Action Item 4 and 5

By the above amendment, Applicant has rewritten the claims to define the invention more particularly and distinctly so to define the invention patentably over the prior art.

The rejection of Claim 9 On Hornblad is overcome.

Remarks – General

The last O.A. rejected independent claim 9 stating Hornblad discloses a self contained banner comprising a flexible front face and a flexible back face coupled together and of sufficient size to accommodate the display of a team insignia, whereby the front face and back face from a housing, the housing having means of supporting a plurality of flexible elements; means for displaying the elements within the housing; means for positioning the elements into a plurality of symbol displays; and means for using attachments to display the housing to a variety of support structures.

Claim 9 has been rewritten as new claim 11 to define the invention more particularly and distinctly so as to overcome the rejections and define the invention patentably over this reference. **Applicant requests reconsideration of this rejection, as now applicable to claim 11, for the following reasons:**

Applicant's invention achieves results that are new, superior and unsuggested by Hornblad,

1. **Hornblad's display elements must be physically removed from banner housing while Applicant's display elements are self contained and work as one unit within the banner.**

Hornbald instructs: (see **Hornblad, 4,937,962 - p.4, col. 2. lines 1-4**): “A display card is removably received in the display pocket and includes a display surface which is visible through the transparent panel when the display card is in the display pocket.” Hornblad further instructs, (see **Hornblad, 4,937,962 - p.4, col. 2. lines 39-41**) “a second transparent panel overlaps the open upper end of the display pocket while permitting access to the interior of the display pocket.”

Hornblad provides for a banner containing a transparent pocket secured on the outside of the banner, the banner being made of a non-transparent material. The transparent pocket contains a second transparent panel which overlaps the pocket, thus providing a seal over the pocket. Display cards, each containing a separate scoring symbol, are singularly selected and placed (removably received”) into the pocket.

- i. Hornblad presents a means to display scoring symbols on the outside of a banner by incorporating scoring elements which are physically separate and removed from the banner. These scoring elements are slipped (removably received) into transparent pockets which have been placed on the outside faces of the banner. The need to remove the scoring element from the banner itself defines the device as not being self contained. The fact that it is not self contained and the scoring elements must be singularly selected and placed into these outside pockets forces the user to use multiple steps to change the display, specifically,

Step #1 – Remove old scoring element from one of the outside display pockets.

Step #2 – Set down old scoring element or place it in the back of the outside pocket.

Step #3- Sort through and locate new singular scoring element containing desired scoring symbol.

Step #4 – Open overlapping seal on outside pocket to allow entry of scoring element.

Step #5 – Physically place or slip desired scoring symbol into outside pocket.

Hornblad provides for a banner with outside pockets and display cards requiring multiple steps to change the display. Hornblad does not provide an efficient means to change the display symbol. Efficiency of the process is not of great concern to Hornblad because Hornblad's banner was conceived to be used for advertising. Since prices do not change as frequently as a sporting event score, the difficulty or inefficiency of using the device was not a concern of Hornblad and therefore was not addressed by the invention.

- ii. Applicant's specification provides for a one step scoring device having scoring elements (containing multiple scoring symbols) coupled to and sandwiched between the front and back face of the banner housing. A new scoring symbol may then be selected while the scoring element remains within the housing itself. The scoring symbols may be seen through the back and front windows formed in the housing. The scoring element can be repositioned within the banner, with one physical movement providing for a one step, one unit scoring system as follows:

Step #1- Reposition self-contained scoring element to display desired scoring symbol through window.

Specifically the scoring elements do not have to be removed in order to select and display a score. Applicant's amended specification states "**at least one scoring element coupled to and sandwiched between said front face and said back face**". The banner and the scoring elements are therefore self-contained; working as one unit. Applicant provides for a one step, self contained scoring device, Hornblad does not.

2. Applicant provides simultaneous display of the same presentation of the same scoring symbol using one scoring element. To accomplish a simultaneous two sided display of the same scoring symbol, Hornblad requires two separate scoring elements.

Hornblad discloses a banner wherein a pair of transparent panels are mounted on opposite sides of a planar sheet so as to form display pockets on either side of planar sheet. (see Hornblad, 4,937,962 - p. 5, col. 4. lines 50-57): “Referring to Fig 4., one or more additional display pockets 63 can be secured to the opposite side if the planar sheet 11 by stitching additional transparent panels 64 and 66 to the opposite layer 27 of the planar sheet 11. Such additional display pockets can be positioned substantially at the same location as the pockets on the one side of the banner, or, if desired, can be mounted at other locations.”

- i. Hornblad presents a means to display the same scoring symbol on the opposite side of the banner using pockets placed on opposite sides of the banner as a means to allow a two-sided display of the desired scoring symbol. However, Hornblad requires two separate and succinct scoring elements to accomplish this, one placed in a front pocket located on the front face of the banner and a second one placed in a back pocket located on the back face of the banner. As previously presented, five steps are required to replace each scoring symbol, therefore to accomplish a two-sided display, Hornblad would require ten steps, plus walking to either side of the banner to change the symbols.
- ii. Applicant discloses a scoring element with means to display the **same scoring symbol on both the front and back of the scoring element** in a manner to present a mirror image of one another. The scoring element can then be repositioned with one step while the scoring element remains within the banner itself. The scoring symbol is displayed **through both the front face window and the back face window simultaneously.** **Applicant provides for a one step, simultaneous, two-sided scoring display of the same scoring symbol, Hornblad does not.**

3. **Applicant provides for self contained weather resistant flexible scoring elements capable of form fitting to the banner's housing when the banner and the self contained scoring elements are rolled up into a substantially compact and cylindrical shape, while Hornblad provides for perishable display cards that require protection from the elements and cannot retain its original planar properties when substantially rolled into a compact shape.**

Hornblad discloses a fragile display card (scoring element) whose original properties can be easily changed or damaged when exposed to water or when exposed to any physical force such as bending or substantial rolling. (see Hornblad, 4,937,962 - p.4, col. 2. lines 60-62): **“Referring to Fig 4.the display banner 10 further includes one or more display elements or cards 67, 68, 69, 70, 71 formed of paper, paperboard, or other printable material.”**

- i. Hornblad provides for display cards to be formed of paper, paperboard, or other printable material. Webster defines “card” as “a flat, stiff piece of thick paper or thin pasteboard, usually rectangular”. Hornblad’s preferred embodiment is consistent with this definition as he describes paper, paperboard or other printable material as the material to be used to form the display cards. Hornblad further supports this definition by implying the need to protect the display cards from foreign elements. (see Hornblad, 4,937,962 - p.4, col. 2. lines 25-30): **“ In order to prevent the entry of foreign matter into the display pockets 38 and 39 through their respective open upper ends, additional, substantially rectangular, transparent panels or cover flaps 51 and 52 are mounted on the planar sheet 11 and are positioned so as to overlap the upper edges 41 and 46.)** Hornblad uses flexible transparent plastic display pockets with closable flaps mounted to the outside of the banner to hold and protect these fragile cards. Since Hornblad felt it necessary to particularly describe the pockets as being made of flexible

plastic material and separately and particularly describe the display cards as paper or paperboard (not flexible plastic), further instructs on the nature of the display cards. Specifically, Hornblad does not imply or describe the scoring elements themselves as being made of any kind of material that is capable of withstanding the elements, while Applicant does.

- ii. Hornblad further instructs on the nature of the cards by their ability to be permanently creased or scored by bending or folding the planar sheets into a series of folded display elements, by stating: **(see Hornblad, 4,937,962 - p.6, col. 5. lines 23-31) “As shown in Fig. 6 through 8, each of the display cards 68, 69 and 70 comprises an elongated strip of paper, paperboard, or other similar material, having a plurality of parallel, regularly spaced, fold or crease lines 73 formed perpendicular to the elongated axis of the card and arranged such that the card can be folded down to a rectangular shape receivable in one of the display cells 39a, 39b or 39c of the display pocket 39.”** The original form of the planar sheet therefore must be broken or ruptured to form the creases or permanent folds in the material. Specifically, Hornblad’s paper or paperboard planar sheet, once folded, becomes permanently creased along the fold line and is therefore its original properties have been altered and incapable of returning to its original “non-creased” planar state. The display cards being made up of the planar sheet of paper or paperboard material or similar material, would themselves therefore be permanently creased if they were substantially rolled or folded. Hornblad therefore does not provide for a display card or scoring element that once bent or rolled is capable of substantially retaining its original properties and thus capable of returning to its original planar state, while applicant does:

1. Applicant's specification provides for the scoring element to be capable of being repeatedly bent and straightened out while substantially retaining its original planar state. The scoring elements therefore do not fracture, rupture, or become permanently creased when being substantially bent or rolled. Applicant conducted significant research to find material with such properties. Applicant chose a material comprised of extruded amorphous polypropylene co-polymer available from NAP, Inc. of Tallahassee, Florida This provides for a scoring element being self contained within the banner housing, capable of conforming to the various shapes formed by the banner while allowing the banner housing to retain its original banner properties. That is, the banner and the internally contained flexible scoring elements are capable naturally returning to its original planar state after being folded or rolled upon itself as one and then unfurled and displayed as one.
- iii. Hornblads states (see **Hornblad, 4,937,962 - p.6, col. 5. lines 63-66**):
"the unused cards can be placed behind the outermost card where they can be kept available for use in the event it is desired to change the display". Hornblad does not instruct or solve the problem regarding the storage of the unused display cards in the event the banner is to be rolled up upon itself into a compact and cylindrical form for storage. It is apparent that the display cards stacked upon themselves and held within the outside attached display pockets would prevent the banner from being substantially rolled into a compact and cylindrical shape. Either the cards themselves would be permanently misshapen from its original planar state, or the banner itself could not be substantially rolled since it was being obstructed by the stacked cards. In other words, the stacked display cards of Hornblad would impede and not work as one with the banner when being rolled into a compact and cylindrical form. Applicant

provides for a scoring element comprising a planar sheet of lightweight, flexible material capable of being repeatedly rolled or bent without fracturing or losing its original properties, and once released, will substantially return to its original planar state. The scoring element being self-contained within the housing is therefore capable of conforming and form fitting to the various flexible shapes formed by the housing.

Applicant provides for a self-contained, flexible scoring element (coupled to and sandwiched between the housing front and back faces) capable of form fitting to the flexible banner housing as well as capable of returning to its original planar state while also capable of simultaneously displaying a two-sided scoring symbol from within the banner in one easy step, while Hornblad does not.

Discussion of Non-Applied References

Applicant has noted and reviewed the other references cited but these references do not show applicant's invention or render it obvious.

Conclusion

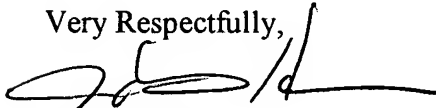
For all the above reasons, applicant submits that the claims of this application are now proper, definite, and define novel structure which is also unobvious. Therefore applicant submits that Claim 11 is allowable over the cited references and solicits reconsideration and allowance.

Further Assistance Requested

Therefore it is submitted that patentable subject matter is clearly present. **If the examiner agrees but does not feel that the present claims are technically adequate, applicant respectfully requests that the examiner write acceptable claims pursuant to MPEP 707.07(j)**

If, for any reason this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. § 2173.02 and § 707.07 (j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings. Applicant would like to thank the examiner for his consideration and efforts on behalf of the Patent Office and the Applicant.

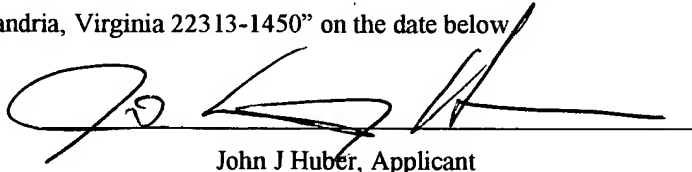
Very Respectfully,



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